

Ch 3, Data Analytics: Drawing Conclusions, Part 2

Legal requirements, p 129-134

Several federal & state laws govern information privacy.

- Privacy Act 1988 (federal)
- Privacy & Data Protection Act 2014 (state)
- Health Records Act 2001 (state)
- Copyright Act 1968
- Charter of Human Rights and Responsibilities Act, 2006, (Vic)
- Spam Act 2003

Using the table, 3.1 indicate the effect, who it applies to and does not apply to for the following legislation:

LEGISLATION	EFFECT	APPLIES TO	DOES NOT APPLY TO
Privacy Act 1988 including Privacy Amendment (Enhancing Privacy Protection) Act 2012	Regulates handling of personal information about individuals.	Federal government departments Private businesses with federal government contracts Health service providers Businesses that buy or sell personal information Credit reporting agencies Banks and credit card companies Energy, water and telecommunications providers Organizations that handle tax file numbers Organizations that choose to opt-in	State/territory public hospitals Individuals not involved in business Public schools and universities Media organizations acting in the course of journalism Political parties and politicians
Copyright Act 1968	Protects the rights of individuals who produce creative and artistic works (intellectual property)	All Australians using other people's intellectual property	
Spam Act 2003	Prevents the sending of spam and the harvesting of email addresses; regulates the sending of commercial emails	All Australians who send unsolicited commercial emails	

Federal Legislation:

1. **Privacy Act 1988 including Privacy Amendment Enhancing Privacy Protection Act 2012**
Privacy Act 1988, including Privacy Amendment (Enhancing Privacy Protection) Act 2012 is composed of all the APPs and regulates the usage of personal information. If you breach the Act repeatedly or severely, it can result in large fines. The Privacy Amendment (Enhancing Privacy Protection) Act 2012 introduced the APPs and added several new features, including credit reporting.
2. **Copyright Act 1968**
The Copyright Act 1968 is a federal law that recognises that any creative or artistic work is the property of the person who created it. Any person wishing to use another person's work must obtain permission and/or pay for a licence. The Copyright Act protects the creator of an original work from unauthorised reproduction, conversion, adaption, transmission or publication of their intellectual property, which includes:
 - Original literary, dramatic, musical and artistic works
 - Websites
 - Software
 - Electronically recorded music, films and books
3. **Spam Act 2003**
Part 1.3 of the Spam Act regulates commercial email and electronic messages, including instant messaging. It does not govern faxes, voice calls or packages sent by postal mail.

Victorian, State Legislation:

1. Charter of Human Rights and Responsibilities Act 2006

The charter protects the rights of privacy, reputation and freedom of belief and expression of individuals. Section 13 protects privacy and reputation. It states that individuals have the right to not to have their privacy, family, home or correspondence unlawfully interfered with, and not to have their reputation unlawfully attacked.

2. Privacy and Data Protection Act 2014

Privacy and Data Protection Act 2014 (Vic). This Victoria Act regulates how state government bodies, councils, schools and similar organisations may collect and use personal information.

3. Health Records Act 2001

The Victorian act, which mostly mimics the Privacy Act's rules about the handling of health information, applies to all Victorian organisations, both private and public (government).

Privacy legislation, p 131

1. What is meant by:

a. Personal information

Name, address, telephone number, date of birth and bank account details.

b. Sensitive information

Health, political, religious or philosophical beliefs, race or ethnicity, sexual orientation or practices, criminal history, membership of political parties, professional or trade organisations, unions, genetic information and biometric data.

c. Health information

Physical or mental health, disability status, past, future or current medical treatments, genetic information, diagnoses and medical prescriptions or usage.

Australian Privacy Principles and Victorian Information privacy principles, p 132

List the 10 principles and their effect.

- Collection of personal information
- Use and disclosure of personal information
- Data quality
- Data security
- Openness
- Access and correction
- Unique identifiers
- Anonymity
- Transborder data flows
- Sensitive information: collect sensitive information only with the person's consent or if required by law. Consent must be voluntary, informed, specific and current.

Spam Act 2003, p 132

1 What is the nature of the Spam Act and what are its effects?

Part 1.3 of the Spam Act regulates commercial email and electronic messages, including instant messaging. It does not govern faxes, voice calls or packages sent by postal mail.

- Individuals may consent to receive spam messages. Consent means clicking a button to say 'I agree to these terms and conditions'
- Unsolicited (unrequested) commercial electronic messages must not be sent at all.
- Commercial electronic messages must identify the sender, and must contain a working unsubscribe facility.
- Address-harvesting software (or address lists created by such software) must not be supplied, acquired or used.
- Exempt organisations include government bodies, political parties and charities. Schools may send commercial electronic messages to past or current students.
- If you 'conspicuously publish' your email address, such as on a blog or website, you may have not be protected by the Act.

Copyright Act 1968, p 133

1. Describe this Act and the nature of its provisions.

The Copyright Act 1968 is a federal law that recognises that any original creative or artistic work is the property of the person and/or pay for a licence. The Copyright Act protects the creator of an original work from unauthorised reproduction, conversion, adaption, transmission or publication of their intellectual property.

Human Rights

Charter of Human Rights and Responsibilities Act 2006, Vic, p 133

1. **What are provisions of this Act?**

The Charter protects the rights of privacy, reputation and freedom of belief and expression of individuals. Section 13 protects privacy and reputation. It states that individuals have the right not to have their privacy, family, home or correspondence unlawfully interfered with, and not to have their reputation unlawfully attacked. Section 14 states that individuals have the right to freedom of thought, conscience, religion and belief, including the freedom to demonstrate publicly their religion or belief in worship, observance, practice and teaching. Section 15 establishes freedom of expression and the right to hold an opinion without interference. Individuals may seek, receive and give information and ideas of all kinds.